



# POLICY & PROCEDURE

## UW-GREEN BAY POLICE DEPARTMENT

<b>SUBJECT:</b>	Records Management / Public Records	<b>SCOPE:</b>	All Employees
<b>CHAPTER:</b>	10 Records	<b>NUMBER:</b>	10.1.1
<b>DISTRIBUTION:</b>	Policy Manual	<b>EFFECTIVE:</b>	06/15/2015
<b>APPROVED:</b>	Tony Decker, Chief of Police	<b>REVIEWED:</b>	
<b>REFERENCE:</b>	<i>§19.34(1), §950.04,</i>	<b>REVISED:</b>	05/01/2022

### I. PURPOSE

**This policy is mandated by State Statute §19.34(1).**

The purpose of this policy is to establish guidelines for management of the public records function, to include the retention, inspection, and release of public records and the destruction of obsolete records.

### II. POLICY

It is the policy of the University of Wisconsin Green Bay Police Department that the affairs of the organization shall be thoroughly documented through a system of public records. Those records shall be made available for inspection and release in accordance with the Wisconsin Public Records Law and shall be retained for a period of time as prescribed.

### III. DEFINITIONS

- A. **Hold:** A status ensuring a record may not be destroyed even though the record retention period has concluded.
- B. **Indefinite:** A status indicating a record, upon reaching the conclusion of its mandated retention period, will continue to be retained, subject to periodic review, to determine whether destruction is appropriate.
- C. **Legal Custodian:** The person vested with authority to render decisions and carry out the department's statutory public records responsibilities.
- D. **Record:** Any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by the department.

### IV. PROCEDURE

- A. **Management of the Public Records Function**

1 The Chief of Police shall have administrative authority and responsibility

for oversight of the public records function of the University of Wisconsin Green Bay Public Safety. The Office of Compliance for the entire University of Wisconsin-Green shall have the ultimate authority.

2. Clerical Staff shall serve at the direction of the Chief as the first point of contact for inquires of the legal custodian of department records.

B. Central Records Repository

1. The University of Wisconsin Green Bay Police Department shall serve as the central records repository for all original field and investigative hard copy records produced by the police department, if any.
2. All records will be maintained in a secure digital or physical location.
3. Records not maintained in a secured repository shall be maintained by the person/unit responsible for the record, as outlined in the records retention schedule in Appendix A of this policy.

C. Records Security and Accessibility

1. Original records which are digitally produced may not be removed from the records management system without the permission of Police Department records custodian or their designee.
2. Record information will be available to department personnel 24 hours a day, with the level of access based upon the position the employee holds within the department.
  - a. Original records will be available for viewing only while using the employee's assigned credentials, or in the cases of hard copies, when records staff is working.
3. Photocopies of original records may be supplied to department personnel on an as needed basis in the performance of their official duties.
4. Requests for copies of department records by other agencies for the purpose of conducting official business shall be forwarded to records custodian or his/her designee. Before fulfilling such requests, criteria established in Wisconsin Public Records Law and related case law regarding records release must be satisfied.

D. Records Inspection / Release

1. All records, as defined in this policy and *Wis. Stats.* §19.32(2), created or kept in connection with the official purpose or function of the University of Wisconsin Green Bay Police Department, shall be open to inspection / release, with limited exception as outlined in Wisconsin Statute and this policy.

2. The following materials are not considered records per state law and subject to release.
  - a. Drafts, notes, preliminary documents, and similar materials prepared for the originator's personal use or by the originator in the name of a person for whom the originator is working.
  - b. Purely personal property with no relation to the office.
  - c. Other materials as establish by statute or court decision.
3. Authorization for inspection / release of department records shall come from the Chief or records custodian, or their designee.
  - a. In the absence of these individuals, the ranking on-duty supervisor may authorize inspection / release of department records.
  - b. Requests of a routine or repetitive nature may be addressed by creation of a criteria by the records custodian, with a standing authorization. e.g. Cleary Crime Log
4. Each request for inspection / release of department records must be evaluated to avoid inadvertent release of restricted material, as determined by state, federal, or case law and outlined in this policy. If the record is of a restricted nature, it shall be withheld if a clear exemption exists, or subjected to a stringent balancing test prior to release.
5. In conducting the aforementioned balancing test, the records custodian shall balance the strong public interest in disclosure of the record against the public interest favoring nondisclosure.
6. Should a record otherwise open to release / inspection contain information not subject to release, the restricted information shall be redacted and the record made available.
7. Records will be available for release / inspection during normal business hours.
8. Procedures for Obtaining / Inspecting Records
  - a. Requests for records may be made orally or in writing.
  - b. Persons making records requests are not required to identify themselves or state a reason for the request.
  - c. Persons making records requests will be asked to complete a Request for Public Records form strictly for the purpose of assisting personnel in finding the record requested and tracking department compliance

with the request.

- (1) Completion of the form is not mandatory, and failure to complete the form is not a reason for denial.
  - (2) In the event the requestor refuses to complete the form, the person receiving the request shall complete the sections of the form necessary to facilitate the records search and track department compliance; e.g., person receiving the request, date/time request is received, description of the record, method of contacting the requestor if the request cannot be immediately filled.
9. Request for Public Records forms shall be retained in a manner prescribed in the Records Retention Schedule appearing in Appendix A of this document.
10. All records requests must reasonably describe the record being requested. Requests that cannot reasonably describe the record requested or provide a reasonable limitation as to the subject matter or length of time represented by the record will be deemed insufficient.
11. The department shall respond to records requests as soon as practicable, as outlined in *Wis. Stats.* §19.35(4)(a),
  - a. Absent exceptional circumstances, a request should be fulfilled within 10 business days.
  - b. Should a request take longer to fulfill, the requestor shall be notified of the reason for the delay and provided with an estimated date of completion.
12. The requestor may elect to inspect or obtain a copy of a requested record.
13. Standing or routine requests to inspect records; e.g., review of daily reports by the media or inspection of daily/weekly vehicle accident reports, or records shared with other agencies during the course of conducting department business, do not require the completion of a Request for Public Records form.
14. Fees for Obtaining Records
  - a. The actual, necessary, and direct costs of reproduction of records shall be assessed in accordance with the fee schedule established:
    - i. Black and White Copies \$.25 per page
    - ii. Color Copies \$1.00 per page
    - iii. Video and audio reproductions \$20.00 each
    - iv. Photographs \$1.00 each or \$10.00 per digital format
    - v. Records Location Fee will be the lowest hourly pay rate +

fringe cost of any employee capable of retrieving the record.

- b. The costs associated with locating records will be charged if they exceed \$50.00 and may not be waived without permission from the Chief of Police.
  - c. If requested records must be mailed or shipped, the actual, necessary, and direct costs of mailing or shipping records will be charged.
  - d. The department will require prepayment of any fees if the total amount exceeds \$5.00, and may withhold copies until payment is received.
15. When a records request is denied, the person making the request shall be given a specific reason for the denial.
  16. Records obtained from other agencies and retained as a part of an official department record, shall be considered an official department record subject to release / inspection pursuant to this policy.
  17. In addition to *Wis. Stats.* §19.35, further guidance on the inspection/release of records can be found in the Wisconsin Public Records Law Compliance Outline, prepared and distributed by the Wisconsin Department of Justice.

E. Restricted Information

1. The identity of any confidential informant or person who has provided information that assists in the investigation of a violation of the law, if that person requests to remain anonymous. [§19.36(8) and 905.10, Wis. Stats.]
2. Information maintained, prepared, or provided concerning the home address, home e-mail address, home telephone number, or social security number of a department employee. [§19.36(10)(a), Wis. Stats.]
3. Information related to a current internal investigation of an employee involving possible criminal action or misconduct related to employment prior to the disposition of the investigation. [§19.36(10)(b), Wis. Stats.]
4. Information pertaining to employment examinations and other appraisal instruments administered for the purpose conducting hiring and promotional activities. [§19.36(10)(c), Wis. Stats.]
5. Employee personnel information used for staff management planning, including performance evaluations, judgments, or recommendations concerning salary adjustments, promotions, job assignments, letters of reference, or other comments or ratings related to employees. [§19.36(10)(d), Wis. Stats.]

6. Information pertaining to an individual's account numbers or customer numbers with a financial institution. [§19.36(13), Wis. Stats.]
7. Information related to mental health registration and treatment, to include copies of statements of emergency detention prepared under §§51.15, 51.45, 55.135, Wis. Stats. [§§51.30(1)(am), 51.30(1)(b), 51.30(4), 55.22, Wis. Stats.]
8. Social Security numbers obtained or maintained by the department. [42 U.S.C. § 405(c)(2)(C)(viii)(I)]
9. Personal information contained in the records of state motor vehicle departments, including the Wisconsin Department of Transportation. [Driver's Privacy Protection Act, 18 U.S.C. §§ 2721-25]
  - a. Such records may be used by any government agency in carrying out its functions.
  - b. In carrying out department functions, including responding to public records requests, personal information obtained from state motor vehicle records that is held by the department may be disclosed, though the circumstances of the request may warrant redaction of certain personal information pursuant to non- Driver's Privacy Protection Act public records law analysis.
10. Information obtained from the Wisconsin Department of Justice designed to:
  - a. Confirm that a CCW license or certification card produced by an individual at the request of a law enforcement officer is valid;
  - b. Confirm that an individual carrying a concealed weapon and claiming to hold a valid license or certification card, but not having it on his or her person, does have a valid license or certification card;
  - c. Investigate whether an individual submitted an intentionally false statement when applying for or renewing a CCW license or certification card.

The aforementioned information regarding an individual that was obtained from the Department of Justice may be released in the strict context of a prosecution for an offense in which the person's status as a licensee or holder of a certification card is relevant. [§175.60(12g)(b)1., Wis. Stats.]

11. Numerous other restrictions are embedded in state statutes or have been established by court decision. These restrictions shall be considered a part of this policy by reference.

F. Active Investigations

1. The release / inspection of records and/or information related to an active investigation shall generally be limited to the following:
  - a. The basic facts surrounding the facts or incident, using statutory elements as a guideline.
  - b. Whether a person was arrested and, if so, the person's name and charge.
  - c. The time and place of the arrest.
  - d. The names of victims, unless such information will endanger the victim, impede further investigation, is contrary to law, or the person is a victim of a sexual assault. The name of a deceased victim should only be released after next of kin have been notified.
2. Additional records / information may be released following application of the balancing test referred to in Section D, above, if it can be determined doing so will not jeopardize the ongoing investigation and/or is necessary to accomplish goals such as ensuring community safety, assisting crime victims, or apprehending a suspect.

G. Juvenile Records

1. Juvenile records shall remain on file after the juvenile becomes an adult. The juvenile portion of a person's arrest and identification records shall remain restricted, even when the individual reaches adulthood.
2. Hard copy juvenile records shall be kept separate from adult records, in accordance with §48.396 and §938.396, Wis. Stats. Hard/Printed offense reports containing juvenile information will be stamped with a "JUVENILE" stamp.
3. Apart from certain statutory exceptions, juvenile records will not be open to release or inspection without an order from the court of jurisdiction. This prohibition includes the parent, guardian, or legal custodian of a juvenile who is the subject of law enforcement reports, as well as the juvenile him or herself.
4. Juvenile records may be released under the following statutory exceptions.
  - a. The victim of a juvenile's act may have disclosed any information in the police record relating to the injury, loss, or damage suffered by the victim, including the name and address of the juvenile and the juvenile's parents. The victim may use and further disclose the information only for the purpose of recovering for the injury, damage, or loss suffered as a result of the juvenile's act.  
[§938.396(1) (c) 5, Wis. Stats.]
  - b. Juvenile records containing information sought by the

representatives of newspapers or other reporters of news who wish to obtain it for the purpose of reporting news without revealing identifying information about the child involved. [ §§48.396(1) and 938.396(1) (b), Wis. Stats.]

- c. Juvenile records involved in the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies. [ §§48.396(1) and 938.396(1) (b), Wis. Stats.]
- d. Juvenile records of children waived into adult court. Records available are limited to those associated with the case resulting in the child's waiver to adult court and are governed by §§48.396 and 938.396(1) (b) 5, Wis. Stats.
- e. Juvenile records relevant to the subject matter of a proceeding shall be open to inspection by a guardian ad litem or counsel for any party, upon demand, and upon presentation of releases where necessary, at least 48 hours before the proceeding. Persons entitled to inspect the records may obtain copies of the records with permission of the custodian of the records or with the permission of the court. [ §§48.293(2) and 938.293(2), Wis. Stats.]
- f. Copies of all reports by any police officer within the department, including, but not limited to, such officer's memoranda and witness statements, shall be made available upon request to counsel or guardian ad litem prior to a plea hearing. The identity of a confidential informant may be withheld pursuant to §905.10. [ §§48.293(1) and 938.293(1), Wis. Stats.]
- g. Juvenile records supplied to the victim-witness coordinator relating to the enforcement of rights under the constitution, Chapter 938, Wis. Stats., and §950.04, Wis. Stats., or the provision of services under §950.06(1m), Wis. Stats. [ 938.396(1) (c) 6, Wis. Stats.]
- h. Juvenile records requested by a fire investigator under §165.55(15), Wis. Stats., necessary for the fire investigator to pursue his or her investigation under §165.55. [ §938.396(1) (c) 8, Wis. Stats.]

#### H. Records Expungement

1. The Supreme Court has established court ordered record expungement applies only to court records, not police records.
2. Upon receipt of notification of a court ordered expungement, the records custodian or his/her designee shall note on the police department record the court record has been expunged.
3. Court ordered record expungement for juvenile records will be processed in



the same manner as any other expungement.

I. Records Retention Guidelines

1. The custodian of records, or their designee shall administer the records retention function, to include the retention of records in accordance with established parameters and the destruction of obsolete records.
2. §19.21(4) (b), Wis. Stats., requires the preservation of public records for a minimum of seven years, unless a shorter period has been set by statute or the Wisconsin Public Records Board.
3. The records retention schedule for the University of Wisconsin Green Bay Police Department follow that of the University of Wisconsin system. That information can be found at <https://www.library.wisc.edu/archives/records-management/retention-disposition/>

J. Exceptions to Records Retention Guidelines

1. Any record for which there is reason to believe litigation may be pending shall not be destroyed, regardless of whether the retention period has concluded.
2. Such records shall be assigned a hold status until all litigation has concluded.

K. Public Records Destruction Procedures

1. When the period specified in the retention schedule has concluded, records meeting the criteria for destruction shall be destroyed as soon as practicable.



April 11, 2022

TONY DECKER, CHIEF OF POLICE

*This policy shall become effective either immediately upon my signature or on the last date noted in the Revised Date field of page one. When a revision becomes effective, it shall be the standard and shall supersede all previous versions of the policy. Historical policies shall be maintained for no less than 7 years.*

